

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:22-CV-39-BO

DAVID ONEIL,)
Plaintiff,)
v.)
KILOLO KIJAKAZI,)
Acting Commissioner of Social Security,)
Defendant.)

ORDER

This matter is before the Court on the Memorandum and Recommendation (“M&R”) [DE 8] of United States Magistrate Judge Robert T. Numbers, II, pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b). For the following reasons, the Court adopts the M&R in part.

BACKGROUND

On March 8, 2022, Magistrate Judge Numbers entered an M&R recommending that the Court either dismiss this action without prejudice, because it is duplicative of plaintiff’s currently pending action¹ in this forum, or consolidate it with plaintiff’s previously-filed case. No objections to the M&R were filed within the time allowed.

DISCUSSION

“The Federal Magistrates Act requires a district court to make a *de novo* determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); *see* 28 U.S.C. 636(b). Absent timely objection, “a district court need not conduct a *de novo* review, but instead must only satisfy itself

¹ *See* 5:22-CV-00020-BO.

that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond*, 416 F.3d at 315 (quotation omitted). Having considered the M&R and the record, the Court is satisfied that there is no clear error on the face and accepts the Magistrate Judge’s recommendation to dismiss this action without prejudice. The Court declines to adopt the Magistrate’s recommendation to consolidate this case.

CONCLUSION

For the foregoing reasons, the Court ADOPTS Judge Numbers’ M&R in part. [DE 8]. Accordingly, this action is DISMISSED WITHOUT PREJUDICE.

SO ORDERED, this 3 day of May, 2022.



TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE